

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/HB 127 — Continuing Care Facilities

by Health Innovation Subcommittee and Rep. Cummings (CS/SB 542 by Health Policy Committee and Senator Stargel)

The bill (Chapter 2016-17, L.O.F.) provides a nursing home additional options for demonstrating that it meets the financial soundness and stability requirements required of an applicant for the Nursing Home Gold Seal Program.

A nursing home that is part of a continuing care retirement community, that is not accredited, may demonstrate that its corporate entity, as a whole, meets the financial soundness and stability requirements for the program, rather than submitting financial statements for each nursing home on its own.

A nursing home that is part of a corporate entity that operates a combination of nursing homes, assisted living facilities, or independent living facilities, or any combination thereof, may submit a consolidated corporate financial statement that demonstrates the corporate entity, in its entirety, meets the financial standards adopted in rule by the Agency for Health Care Administration.

These provisions were approved by the Governor and took effect March 9, 2016.

Vote: Senate 40-0; House 118-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/CS/HB 139 — Dental Care

by Appropriations Committee; Health Quality Subcommittee; and Rep. Cummings and others (CS/SB 234 by Appropriations Committee; and Senators Gaetz, Hays, Abruzzo, Ring, Clemens, and Soto)

The bill creates a joint state and local dental care access accounts initiative to promote local economic development and to encourage Florida-licensed dentists to practice in dental health professional shortage areas or medically underserved areas, or to serve a medically underserved population, subject to the availability of funds.

The bill directs the Department of Health (DOH) to create individual benefit accounts through an electronic benefits transfer system for each dentist who satisfies the requirements for participation. A qualifying dentist must be actively employed by a public health program (county health department, Children’s Medical Services program, federally qualified community health center, federally funded migrant health center, or other publicly funded or nonprofit health care program designated by the DOH) in a targeted area or demonstrate a commitment to opening a dental practice that serves at least 1,200 patients and obtaining local financial support from the community where the dentist will practice in that targeted area. No more than 10 new dental care access accounts may be established per fiscal year.

Funds from the account may be used to repay dental school loans; purchase property, facilities, or equipment for a dental office; or pay for transitional expenses relating to relocating or opening a dental practice. Subject to availability, a practitioner may receive funds for up to five years. An account may be terminated under certain conditions and any unspent funds are returned to the donor or redistributed to other available applicants.

The sum of \$1 million in General Revenue recurring funds is appropriated to the DOH for allocation to the dental access accounts.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 40-0; House 117-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/HB 173 — Medical Faculty Certification

by Health Quality Subcommittee; and Rep. Magar and others (SB 878 by Senator Sachs)

The bill (Chapter 2016-54) expands the current medical faculty certificate eligibility criteria by allowing a medical faculty certificate to be issued to an individual who has been offered and has accepted a full-time faculty appointment to teach in a program of medicine at the Florida Atlantic University. The bill also limits the number of extended medical faculty certificate holders allowed at the Florida Atlantic University to 30 persons, which is consistent with limitations for all but one of the other institutions eligible for such certificates.

A medical faculty certificate allows medical school faculty physicians to practice medicine in Florida without sitting for and successfully passing a licensure examination. A physician who receives a medical faculty certificate has all rights and responsibilities as other licensed physicians, except the certificate holder may only practice in conjunction with a full-time faculty position at an accredited medical school and its affiliated clinical facilities or teaching hospitals.

The bill also changes the name of the Mayo Medical School at the Mayo Clinic in Jacksonville, Florida, in s. 458.3145, F.S., to the Mayo Clinic College of Medicine in Jacksonville, Florida, to expand the eligibility of physicians who teach at the college to receive medical faculty certificates.

These provisions were approved by the Governor and take effect July 1, 2016.

Vote: Senate 38-0; House 116-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/CS/CS/HB 221 — Health Care Services

by Health and Human Services Committee; Appropriations Committee; Insurance and Banking Subcommittee; Rep. Trujillo and others (CS/CS/CS/SB 1442 by Appropriations Committee; Banking and Insurance Committee; Health Policy Committee; and Senator Garcia)

The bill prohibits an out-of-network provider from balance billing members of a preferred provider organization (PPO) or an exclusive provider organization (EPO) for covered emergency services or covered nonemergency services. The bill establishes a payment process for insurers to provide reimbursement for such out-of-network services.

The bill amends the claims resolution process to add several mandatory components and voluntarily steps to resolve billing issues between providers and insurers. The parties may make offers and the other party has 15 days to accept once received. If the party does not accept the offer and the final order amount is greater than 90 percent or less than 110 percent of the offer amount, the party receiving the offer must pay the final order amount to the offering party and is deemed the non-prevailing party.

The bill requires insurers to provide coverage for emergency services without a prior authorization determination and regardless of whether the provider is a participating provider. Applicable cost sharing must be the same for participating or nonparticipating providers for the same services. An insurer is solely liable for the payment of fees to a non-participating provider for covered nonemergency services other than any applicable copays, deductibles and coinsurance when such services are provided in a facility that has a contract with the insurer for the nonemergency services and would have otherwise been obligated to provide services under the contract, and the insured does not have the opportunity to choose a participating provider at the facility. Insurers or health care providers may not balance bill the insured.

The bill also provides that willful noncompliance by a provider (health care practitioners subject to regulation under ch. 456, 458, or 459, F.S.) with the balance billing provisions for covered emergency services and nonemergency services, are grounds for discipline by the Department of Health (DOH) if such noncompliance occurs with such frequency as to constitute a general business practice. Other specified providers (hospitals, ambulatory surgical centers, specialty hospitals, and urgent care centers) are required to comply with the balance billing provisions as a condition of licensure.

Additionally, the bill provides that willfully failing to comply with the balance billing provisions with such frequency as to constitute a general business practice is defined as an unfair method of competition and an unfair or deceptive act or practice.

In order to put the public on notice, hospitals are required under the bill to maintain information on their websites with contact information for practitioners and practice groups contracting with the hospital. The website must also provide notice that services may be provided in the hospital by practitioners who bill separately from the hospital and that such practitioners might or might not participate with the same health insurance carriers as the hospital. The bill adds compliance

with these new provisions as a condition of licensure for hospitals, surgical centers, and urgent care centers.

Insurers must also provide on its website, by specialty, a current listing of all participating providers, their address, phone numbers, languages spoken, hospital affiliations, and board certifications. Such lists must be updated monthly with additions and terminations.

Effective January 1, 2017, certain insurance policies must include a specific disclosure warning insureds that limited benefits will be paid when nonparticipating providers are used.

The bill requires a health insurance plan or health maintenance contract to provide coverage for the treatment of Down syndrome through speech therapy, occupational therapy, physical therapy, and applied behavior analysis services.

The bill also provides more detailed provisions relating to the use of a uniform prior authorization form that was also enacted in HB 423 during this Session. The bill expressly provides that the provisions in this act control regardless of the order in which the bills are enacted. In this bill, the prior authorization form, if applicable, must be used beginning January 1, 2017, or six months after rules adopting the prior authorization form take effect, and specific elements to be included in the two-page form are provided.

If approved by the Governor, these provisions take effect July 1, 2016, except where otherwise provided.

Vote: Senate 39-0; House 118-1

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

SB 238 — Medical Assistant Certification

by Senator Grimsley

The bill repeals s. 458.3485(3), F.S., to remove a voluntary provision which recognizes two certification organizations for medical assistants.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 38-0; House 115-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/CS/SB 242 — Infectious Disease Elimination Pilot Program

by Fiscal Policy Committee; Health Policy Committee; and Senators Braynon and Flores

The bill creates the Miami-Dade Infectious Disease Elimination Act (IDEA). The IDEA authorizes the University of Miami and its affiliates to establish a needle and syringe exchange pilot program in Miami-Dade County. The pilot program is to offer free, clean, and unused hypodermic needles and syringes in exchange for used needles and syringes to prevent the transmission of blood-borne diseases such as HIV, AIDS, or viral hepatitis among intravenous drug users, their sexual partners, and offspring.

The bill requires security of the exchange sites and accountability of used and unused needles and syringes. The pilot program must also make available educational materials and refer participants for drug abuse prevention, treatment, and HIV and viral hepatitis screening.

The bill provides that the possession, distribution, or exchange of needles or syringes as part of the pilot program does not violate the Florida Comprehensive Drug Abuse Prevention and Control Act, or any other law. The bill requires the University of Miami to collect data for reporting purposes, with the final report due August 1, 2021, but prohibits the collection of any personal identifying information.

The bill prohibits state, county, or municipal funds from being used to operate the pilot program. Instead, the pilot program must be funded through grants and donations from private resources.

The pilot program expires on July 1, 2021.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 37-2; House 95-20

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/CS/CS/HB 307 — Medical Use of Cannabis

by Health and Human Services Committee; Health Care Appropriations Subcommittee; Criminal Justice Subcommittee; Reps. Gaetz, Brodeur, Edwards, and others (CS/SB 460 by Rules Committee; Senators Bradley, Soto, Sobel, Hutson, and Sachs)

The bill amends s. 381.986, F.S., the compassionate use statute on low-THC cannabis to include medical cannabis prescribed by a qualified physician for eligible patients. “Medical cannabis” is defined in the bill as all parts of any plant in the genus Cannabis that is dispensed only from a dispensing organization for medical use by an eligible patient. A “cannabis delivery device” is also defined in the bill to include any object used to prepare, store, ingest, inhale, or otherwise introduce cannabis into the human body. For purposes of the medical use of medical cannabis, an eligible patient is a person who has a terminal condition, which, without the administration of life-sustaining procedures, will result in death within one year if the condition runs its normal course; and who meets the other conditions in s. 499.0295, F.S., relating to experimental treatments for terminal conditions.

The bill limits where a qualified patient may use low-THC cannabis or medical cannabis and violating any of these restrictions is a misdemeanor of the first degree. A qualified patient is a resident of the state who has been added to the compassionate use registry by a Florida-licensed allopathic or osteopathic physician to receive low-THC cannabis or medical cannabis from a dispensing organization.

Prior to ordering low-THC cannabis or medical cannabis, the bill requires the physician to have treated the patient for at least three months immediately preceding the patient’s registration in the compassionate use registry. The amount ordered for the qualified patient may not exceed a 45-day supply. If a physician is ordering medical cannabis for an eligible patient, the physician must also follow the written informed consent requirements in s. 499.0295, F.S.

The bill provides criminal penalties for a physician who orders medical cannabis for a patient without a reasonable belief that the patient has a terminal condition and authorizes disciplinary action under the applicable practice act if a physician orders low-THC cannabis, medical cannabis, or a cannabis delivery device and receives compensation from a dispensing organization.

The regulatory oversight of the compassionate use of low-THC cannabis and medical cannabis is strengthened in the bill, as follows:

- The compassionate use registry also includes the registration of the patient’s legal representative and the Department of Health (DOH) may issue registration cards for patients and their legal representatives.
- The DOH may conduct announced or unannounced inspections, is required to conduct at least a biennial inspection of each dispensing organization, and is authorized to enter into interagency agreements with other state agencies for these inspections or related responsibilities assigned to the DOH.

- Additional criteria is added for the operation and activities of a dispensing organization, including:
 - The growing of low-THC cannabis or medical cannabis, including the use of pesticides, segregation from other plants, and inspection and control of pests;
 - The processing of low-THC cannabis or medical cannabis, including segregation from other plants or products, testing prior to dispensing in addition to validation and auditing by an independent testing laboratory; and compliance with specified packaging and labeling provisions;
 - The dispensing of low-THC cannabis, medical cannabis, or a cannabis delivery device; and
 - Security for all premises, product, and transportation of low-THC cannabis or medical cannabis.
- The DOH is authorized to impose administrative fines for specified violations, in addition to suspending, revoking, or refusing to renew a dispensing organization's approval for those violations.
- The DOH is authorized to adopt rules necessary to implement this section of law.

The bill:

- Reduces the performance bond from \$5 million to \$2 million when a dispensing organization serves at least 1,000 qualified patients.
- Requires the DOH to approve three additional dispensing organizations when 250,000 active qualified patients are registered in the compassionate use registry.
 - At least one of the three applicants must be a recognized class member of specified litigation and a member of the Black Farmers and Agriculturalists Association.
 - Applicants are not required to have a certificate of registration for the cultivation of more than 400,000 plants, be operated by a nurseryman, or have been a nursery for at least 30 years.
- Allows wholesale distributions of low-THC cannabis or medical cannabis between dispensing organizations.

The bill preempts to the state all matters regarding the regulation of the cultivation and processing of low-THC cannabis or medical cannabis. A municipality may determine, by ordinance, the criteria for the number and location of dispensing facilities within its municipal boundaries. Similarly, a county may determine, by ordinance, the criteria for the number and location of dispensing facilities within the unincorporated areas of that county.

The bill exempts qualified patients and their legal representatives from criminal penalties under ch. 893, F.S., as well as from any other section of law, but subject to the requirements in the bill, for the purchase and possession of low-THC cannabis, medical cannabis, and a cannabis delivery device ordered for the patient's medical use.

Independent testing laboratories are also exempted from criminal penalties under ch. 893, F.S., as well as from any other section of law, but subject to the requirements in the bill, for

possessing, testing, transporting, and lawfully disposing of low-THC cannabis or medical cannabis as provided by the DOH rules.

The bill exempts approved dispensing organizations, as well as their owners, managers, and employees from criminal penalties under ch. 893, F.S.; from licensure and regulation under the Florida Pharmacy Act or the Florida Drug and Cosmetic Act; and from any other section of law, but subject to the requirements in the bill, for manufacturing, possessing, selling, delivering, distributing, dispensing, and lawfully disposing of low-THC cannabis, medical cannabis, or a cannabis delivery device.

The bill preserves the status, and authorizes each of the five initially-approved dispensing organizations to operate as a dispensing organization if it has posted the \$5 million performance bond, meets the requirements of and requests cultivation authorization, and has expended at least \$100,000 to fulfill its obligation as a dispensing organization. In addition, any applicant that received the highest aggregate score in the evaluation process, notwithstanding any prior determination by the DOH, is approved to operate as a dispensing organization upon posting the performance bond and complying with applicable rules.

Any other organization that receives a final determination from the Division of Administrative Hearings, the DOH, or a court of competent jurisdiction that it was entitled to be a dispensing organization is authorized to operate as a dispensing organization along with one of the five initially-approved dispensing organizations in the same region.

The bill provides that these approvals do not apply to the three new dispensing organizations authorized for approval when the compassionate use registry attains 250,000 active qualified patient registrations.

A college or university that has a college of agriculture is authorized to conduct cannabis research consistent with state and federal law.

The bill recognizes medical cannabis that is manufactured and sold by a dispensing organization as an investigational drug under the Right to Try Act, s. 499.0295, F.S., which authorizes experimental treatments for terminal conditions.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 28-11; House 99-16

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/HB 373 — Mental Health Counseling Interns

by Health Quality Subcommittee; Rep. Burgess and others (SB 858 by Senator Legg)

The bill requires that a clinical social work, marriage and family, or mental health counseling intern practice under the supervision of a licensed clinical social worker, marriage and family therapist, or mental health counselor, as applicable, at all times. It clarifies that an intern may only practice if the supervising or another licensed mental health professional is onsite.

The bill limits the duration of a registered internship to five years, with a grandfathering provision for licenses issued before April 1, 2017. These intern registrations expire March 31, 2022, and may not be renewed or reissued. The internship may only be renewed if the registration is issued after April 1, 2017, and the intern has passed the theory and practice examination required for full licensure. The bill prohibits a person who has held a provisional license from applying for an intern registration in the same profession.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 37-0; House 118-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/HB 375 — Physician Assistants

by Health Care Appropriations Subcommittee; Rep. Steube and others (CS/CS/SB 748 by Appropriations Committee; Health Policy Committee; and Senator Flores

The bill authorizes a physician assistant (PA) to perform services delegated by a supervising physician related to the PA's practice in accordance with his or her education and training unless expressly prohibited under ch. 458, ch. 459, F.S., or by rules adopted under the allopathic and osteopathic medical practice acts.

The bill also clarifies that a PA, with delegated prescribing authority, may use prescriptions in both paper and electronic form. The bill deletes obsolete provisions relating to PA examinations by the Department of Health in favor of national proficiency examinations. The bill streamlines the PA licensure and application process by eliminating the requirement for letters of recommendation and substituting acknowledgments for sworn statements that required notarization.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 40-0; House 118-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

HB 423 — Access to Health Care Services

by Reps. Pigman, Campbell, and others (CS/CS/CS/SB 676 by Appropriations Committee; Banking and Insurance Committee; Health Policy Committee; and Senators Grimsley, Flores, Margolis, Altman, Detert, Bullard, Bean, Gibson, Clemens, Braynon, Diaz de la Portilla, and Soto)

The bill authorizes physician assistants (PAs) and advanced registered nurse practitioners (ARNPs) to prescribe controlled substances under current supervisory standards for PAs and protocols for ARNPs beginning January 1, 2017, and creates additional statutory parameters for their controlled substance prescribing. The bill provides that s. 464.012, F.S., relating to certification of ARNPs, shall be known as “The Barbara Lumpkin Prescribing Act.”

Under the bill, an ARNP’s and PA’s prescribing privileges for controlled substances listed in Schedule II are limited to a seven-day supply and do not include the prescribing of psychotropic medications for children under 18 years of age, unless prescribed by an ARNP who is a psychiatric nurse. Prescribing privileges may also be limited by the controlled substance formularies that impose additional limitations on PA or ARNP prescribing privileges for specific medications. An ARNP or PA may not prescribe controlled substances in a pain management clinic.

The bill requires PAs and ARNPs to complete three hours of continuing education biennially on the safe and effective prescribing of controlled substances.

Beginning January 1, 2017, health insurers, health maintenance organizations, Medicaid managed care plans, and pharmacy benefits managers, which do not use an online prior authorization form, must use a standardized prior authorization form that the Financial Services Commission adopts by rule to obtain a prior authorization for a medical procedure, course of treatment, or prescription drug benefit. The bill specifies that electronic prior-authorization approvals do not preclude benefit verification or medical review by the insurer under either the medical or pharmacy benefits.

The bill authorizes a free clinic to receive a legislative appropriation or grants to support the delivery of contracted services by volunteer health care providers, including the employment of health care providers to supplement, coordinate, or support the delivery of such services, while retaining sovereign immunity protections under existing law. The bill further specifies that such appropriation or grant does not constitute compensation from the governmental contractor for services provided under the contract.

If approved by the Governor, these provisions take effect upon becoming law, except where otherwise provided.

Vote: Senate 37-0; House 117-1

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

SB 450 — Physical Therapy

by Senators Grimsley, Clemens, and Joyner

The bill authorizes a physical therapist to implement a plan of treatment provided for a patient by a physician licensed in a state other than Florida. The bill increases the time frame for which a physical therapist can provide physical therapy treatment to a patient for a condition not previously assessed by a practitioner of record or a physician licensed in another state. The time frame is increased from 21 days to 30 days.

The bill authorizes any person who holds a physical therapy license, and obtains a degree of Doctor of Physical Therapy, to use the letters “D.P.T.” and “P.T.” However, a physical therapist may not use the title “doctor” without also clearly informing the public of his or her profession as a physical therapist.

The bill revises terms prohibited from use by a person who is not licensed as a physical therapist or a physical therapist assistant and makes it a first degree misdemeanor to falsely represent licensure or to obtain a license by false representation.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 37-0; House 117-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/SB 580 — Reimbursement to Health Access Settings for Dental Hygiene Services for Children

by Health Policy Committee and Senator Grimsley

The bill authorizes the Agency for Health Care Administration to reimburse a health access setting under the Medicaid program for remediable dental services (remediable tasks) delivered by a dental hygienist when provided to a Medicaid recipient younger than 21 years of age. Remediable tasks are defined as intra-oral tasks that do not create unalterable changes in the mouth or contiguous structures, are reversible, and do not expose the patient to increased risks.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 38-0; House 115-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

SB 586 — Responsibilities of Health Care Providers

by Senator Stargel

The bill requires a hospital to notify obstetrical physicians at least 120 days before closing its obstetrical department or ceasing to provide obstetrical services.

The bill also repeals s. 383.336, F.S., which designates certain hospitals as “provider hospitals” and requires physicians in those hospitals to follow additional practice parameters when providing cesarean sections paid for by the state.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 38-0; House 106-1

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

HB 633 — Public Food Service Establishments

by Rep. Raulerson and others (SB 764 by Senator Hays)

The bill amends s. 509.013, F.S., to exclude from the definition of “public food service establishment”:

- Any temporary eating place used for food contests or cook offs and maintained by a school, college, university, church, religious organization, nonprofit fraternal organization, or nonprofit civic organization; and
- Any eating place maintained and operated by an individual or entity at a food contest, cook-off, or temporary event lasting up to three days hosted by a church, religious organization, nonprofit fraternal organization, or nonprofit civic organization.

The bill requires that, upon request by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, the organization claiming the exclusion must provide proof of its status as a church, religious organization, nonprofit fraternal organization, or nonprofit civic organization.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 38-0; House 116-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

HB 819 — Sunset Review of Medicaid Dental Services

by Rep. J. Diaz and others (SB 994 by Senators Negron, Sobel, and Flores)

The bill removes dental services as a required benefit from the Medicaid Managed Assistance program component of the Statewide Medicaid Managed Care program effective March 1, 2019. The bill requires the Office of Program Policy Analysis and Government Accountability to provide the Governor, President of the Senate, and Speaker of the House of Representatives by December 1, 2016, a comprehensive report that examines the effectiveness of Medicaid managed care plans in improving access, satisfaction, delivery, and value of dental services. The report must also examine, by plan and in the aggregate, the historical trends of costs, access, utilization, and improvement of dental care statewide and in the experience of other states.

The Legislature may use this report to determine the scope of dental benefits in the Medicaid managed care programs for future procurements, and whether to provide the benefit separate from medical benefits. If the Legislature takes no action before July 1, 2017, the Agency for Health Care Administration is directed to implement a statewide competitive procurement for a separate dental program for children and adults with a choice of at least two vendors. The contract must be for 5 years, be non-renewable, and include a medical loss ratio provision consistent with the requirement for health plans in the SMMC program.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 35-2; House 100-15

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/CS/SB 938 — Retail Sale of Dextromethorphan

by Commerce and Tourism Committee; Health Policy Committee; and Senator Benacquisto

The bill regulates the sale of dextromethorphan (DXM), a synthetically produced drug, commonly used in over-the-counter cough suppressants in the United States. The bill prohibits any manufacturer, distributor, or retailer, and their employees and representatives, from knowingly or willfully selling a finished drug product that contains DXM to an individual under the age of 18 without a valid prescription. The bill requires individuals presumed to be less than 25 years of age to provide proof of age prior to purchasing a finished drug product that contains any quantity of DXM.

The bill also sets forth procedures for local law enforcement officers to enforce the law. An individual who possesses or receives a finished product containing any quantity of DXM in violation of the bill, with the intent to distribute, is subject to a civil citation and a fine of up to \$100 for each violation. An employee or representative who sells a finished drug product containing DXM in violation of the act is subject to a written warning. A manufacturer, distributor, or retailer found to be in violation of the act may be subject to a civil citation and a fine of up to \$100 per violation. However, a citation issued to a manufacturer, distributor, or retailer may be avoided upon the showing of a “good faith effort” to comply with the bill’s requirements.

The bill provides a process for disputing a citation.

The bill preempts local regulation of DXM.

If approved by the Governor, these provisions take effect January 1, 2017.

Vote: Senate 39-1; House 115-2

THE FLORIDA SENATE
2016A SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/CS/HB 941 — Department of Health

by Health and Human Services Committee; Health Quality Subcommittee; Rep. Gonzalez and others (CS/CS/SB 918 by Appropriations Committee; Health Policy Committee; and Senator Richter)

The bill authorizes the Department of Health (DOH) to waive fees and issue health care licenses to active duty U.S. military personnel who are within six months of an honorable discharge; and to waive fees and issue licenses, except for dental licenses, to active duty military spouses if the person is a practitioner in a profession for which licensure in another state or jurisdiction is not required, under certain circumstances. The bill authorizes the DOH to issue certificates to military trained emergency medical technicians (EMTs) and paramedics under certain circumstances; and authorizes the issuance of temporary certificates to active duty military licensed in another state and practicing in Florida pursuant to a military platform.

The bill exempts a chiropractic physician from regulation in Florida when he or she holds an active license in another jurisdiction and is performing chiropractic procedures or demonstrating equipment or supplies for educational purposes at a board-approved continuing education program.

The bill also updates various provisions regulating health care professions to reflect current operations and to improve operational efficiencies, including:

- Conforming Florida Statutes to reflect implementation of the integrated electronic continuing education (CE) tracking system regarding the licensure and renewal process;
- Authorizing the DOH to contract with a third party to serve as the custodian of medical records in the event of a practitioner's death, incapacitation, or abandonment of records;
- Extending the period of time in which an EMT or paramedic certificate may be renewed;
- Deleting the requirement for pre-licensure courses relating to HIV/AIDS and medical errors for certain professions;
- Eliminating a loophole pertaining to the licensure and license renewal of certain felons, persons convicted of Medicaid fraud, or other excluded individuals;
- Eliminating the requirement for annual inspections of dispensing practitioners' facilities;
- Repealing the Council on Certified Nursing Assistants and the Advisory Council of Medical Physicists; and
- Providing for a one-year temporary license for medical physicists.

Additionally, the bill mandates more stringent reporting requirements for the James and Esther King Biomedical Research Program, the William G. "Bill" Bankhead, Jr., David Coley Cancer Research Program, the Ed and Ethel Moore Alzheimer's Disease Research Program within the DOH, and entities that receive a specific appropriation for biomedical research and related functions.

Unspent, but obligated, general revenue funds that are appropriated to the Ed and Ethel Moore Alzheimer's Disease Research Program are authorized to be carried forward on June 30 of each fiscal year for up to five years after the effective date of the original appropriation.

The bill also:

- Provides parameters for certain health care practitioners to provide expedited partner therapy related to sexually transmissible disease under specified circumstances and requirements.
- Established the Office of Minority Health and Health Equity within the DOH to administer the Closing the Gap grant program.
- Exempts a Florida-permitted manufacturer from regulation under the Florida Pharmacy Act for the delivery of dialysate, drugs, or devices to a patient with chronic kidney failure or to a health care practitioner for the self-administration or administration of dialysis therapy, as applicable.
- Authorizes a pharmacist to dispense a one-time emergency refill of one vial of insulin to treat diabetes mellitus.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 37-0; House 112-3

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/CS/SB 964 — Prescription Drug Monitoring Program

by Fiscal Policy Committee; Health Policy Committee; and Senator Grimsley

The bill exempts a rehabilitative hospital, assisted living facility, or nursing home that dispenses a dosage of a controlled substance to a patient from reporting that act of dispensing to the prescription drug monitoring program (PDMP).

The designee of a pharmacy, prescriber, or dispenser is allowed access to information in the PDMP database that relates to a patient of the pharmacy, prescriber, or dispenser, for the purpose of reviewing the patient's controlled substance prescription history.

The bill also authorizes impaired practitioner consultants to request access to the PDMP information relating to impaired practitioner program participants, or a person who is referred to the program. The impaired practitioner program participant, or a person referred to the program, must have agreed to be evaluated or monitored through the program, and separately agreed in writing to the consultant accessing the information in the PDMP.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 39-0; House 117-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

HB 1061 — Nurse Licensure Compact

by Rep. Pigman and others (CS/SB 1316 by Appropriations Committee and Senator Grimsley)

The bill authorizes Florida to enter the revised Nurse Licensure Compact (NLC), a multi-state agreement that establishes a mutual recognition system for the licensure of registered nurses and licensed practical or vocational nurses. The bill enacts the NLC into law, which is a prerequisite for joining the compact.

A nurse who is issued a multi-state license from a state that is a party to the NLC is permitted to practice in any state that is also a party to the compact. However, the nurse must comply with the practice laws of the state in which he or she is practicing or where the patient is located. A party state may continue to issue a single-state license, authorizing practice only in that state.

If approved by the Governor, these provisions take effect December 31, 2018, or upon enactment of the Nurse Licensure Compact into law by 26 states, whichever occurs first.

Vote: Senate 39-0; House 111-1

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

HB 1063 — Public Records and Meetings/Nurse Licensure Compact
by Rep. Pigman and others (CS/SB 1306 by Health Policy Committee and Senator Grimsley)

The bill creates an exemption from the public record requirements for a nurse's personal identifying information, other than the nurse's name, licensure status, or licensure number, obtained from the coordinated licensure information system under the Nurse Licensure Compact, as defined in s. 464.0095, F.S., and held by the Department of Health or the Board of Nursing.

The bill also creates an exemption from the public meeting requirements for a meeting, or a portion of the meeting, of the Interstate Commission of Nurse Licensure Compact Administrators established under the compact. The exemption applies when matters are discussed that are specifically exempted from disclosure by state or federal law. The recordings, minutes, and records generated from those meetings, or portions thereof, are also exempt from s. 119.071(1), F.S., and s. 24(a), Art. I of the Florida Constitution.

The bill provides for the repeal of the exemption on October 2, 2021, unless reviewed and reenacted by the Legislature. It also provides statements of public necessity for the public records and public meetings exemptions as required by the Florida Constitution.

If approved by the Governor, these provisions take effect on the same date that HB 1061 or similar legislation takes effect, if such legislation is adopted in this legislative session and becomes law.

Vote: Senate 38-0; House 112-2

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/CS/HB 1175 — Transparency in Health Care

by Health and Human Services Committee; Health Care Appropriations Subcommittee; Rep. Sprowls and others (CS/SB 1496 by Appropriations Committee; and Senators Bradley and Gaetz)

The bill increases the transparency and availability of health care pricing and quality of service information to enable consumers to make informed choices regarding health care treatment. The Agency for Health Care Administration (AHCA) is required to contract with a vendor to provide a consumer-friendly, Internet-based platform that allows a consumer to research the cost of health care services and procedures. The AHCA is to select the vendor through a competitive procurement process.

Services and procedures will be grouped by a descriptive service bundle to facilitate price comparisons provided in hospitals and ambulatory surgery centers (ASC). Quality indicators for services at the facilities will also be made available to the consumer to assist with health care decision making.

Hospitals and ASCs are required to provide access to the searchable service bundles on their website. Consumers will be presented with the estimated average payment received, excluding Medicaid and Medicare, and estimated payment ranges for each service bundle, by facility, facilities within geographic boundaries, and nationally. The facility must disclose that this information is an estimate of costs and that actual costs will be based on services actually provided to the patient. Additionally, the facility must disclose the facility's financial assistance policies and collection procedures.

The hospital and ASC must notify prospective patients that other health care providers may provide services in the facility and bill separately from the facility. Furthermore, the prospective patient must be informed that these healthcare providers may or may not participate with the same health insurers or health maintenance organizations (HMOs) as the facility. Accordingly, the patient should contact the applicable practitioners to determine the health insurers and HMOs with which the practitioner participates as a network or preferred provider. The facility must provide contact information for the practitioners.

Insurers and HMOs are required to provide on their websites a method for policy holders to estimate their cost-sharing responsibilities by service bundle based on the insured's policy and known plan usage. These estimates shall include both in-network and out-of-network providers. Insurers and HMOs are also required to provide hyperlinks on their website to the AHCA's performance outcome and financial data.

Consumers may request personalized good faith estimates of charges for nonemergency medical services from hospitals, ASCs, and health care practitioners relating to medical services provided in the hospital or ASC. These good faith estimates must be provided to the consumer within 7 days after the consumer's request. The bill provides for a daily fine for non-compliance by

facilities and health care practitioners. The personalized estimate must also inform the patient about the health care provider's financial assistance policies and collection procedures.

A patient may also request an itemized bill or statement from the hospital and ASC after discharge. The requested itemized bill or statement must be provided within 7 days and be specific, written in plain language, and identify all services provided by the facility and any facility fees, as well as rates charged, amounts due, and the payment status. The itemized bill or statement must inform the patient to contact his or her insurer regarding the patient's share of costs. The facility must provide records to verify the bill or statement within 10 days after a request and respond to questions concerning the statement or bill.

The bill requires health insurers and HMOs that participate in the state group health insurance plan or Medicaid managed care to submit all claims data from Florida policy holders, with certain supplemental plan exceptions, to the vendor selected by the AHCA.

Each diagnostic-imaging center operated by a hospital but not located on the hospital grounds is required to post in the reception area prices charged to uninsured persons for the 50 most frequently provided services. The bill prohibits the AHCA from establishing an all-payor claims database or a comparable database without express legislative authority.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 34-1; House 116-1

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

HB 1241 — Ordering of Medication

by Reps. Plasencia, Campbell, and others (CS/SB 152 by Appropriations Committee and Senator Grimsley)

The bill provides express authority for an advanced registered nurse practitioner to order any medication for administration to a patient in a hospital, ambulatory surgical center, nursing home, or mobile surgical facility within the framework of an established protocol. The bill also authorizes, pursuant to a supervising physician's delegation, a physician assistant to order any medication for administration to the supervising physician's patient in a nursing home.

The bill provides express authority in ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act, for a supervisory physician to authorize a physician assistant or an advanced registered nurse practitioner to order controlled substances for administration to a patient in a hospital, ambulatory surgical center, nursing home, or mobile surgical facility.

The bill also authorizes a health care practitioner to prescribe and dispense, or a pharmacist to dispense, an emergency opioid antagonist pursuant to a non-patient specific standing order for an auto injection delivery system or intranasal application delivery system, which must be appropriately labeled with instructions for use.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 38-0; House 116-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/HB 1245 — Medicaid Provider Overpayments

by Health and Human Services Committee and Rep. Peters (CS/SB 1370 by Health Policy Committee and Senator Grimsley)

The bill authorizes the Agency for Health Care Administration (agency) to certify that a Medicaid provider is “out of business” and that any overpayments made to that provider cannot be collected. Such an authorization allows Florida to use a federal exemption from repayment of the mandatory Medicaid federal share for provider overpayments.

The bill removes obsolete technology references to expand the types of tools available to the agency to verify visits for the delivery of home health services in order to deter fraudulent or abusive billing for these services.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 36-0; House 118-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/HB 1335 — Long-term Care Managed Care Prioritization

by Health and Human Services Committee and Rep. Magar (CS/SB 7056 by Appropriations Committee and Health Policy Committee)

The bill addresses Medicaid's long-term care managed care (LTCMC) program and revises ss. 409.962 and 409.949, F.S., relating to eligibility, enrollment, and prioritization of individuals for the program.

The bill requires the Department of Elderly Affairs (DOEA) to maintain a statewide wait list for enrollment for the home and community-based services portion of LTCMC, and to prioritize individuals for potential enrollment using a frailty-based screening tool that generates a priority score. The DOEA must develop the screening tool by rule and make publicly available on its website the specific methodology used to calculate an individual's priority score. The bill requires individuals to be rescreened at least annually or upon notification of a significant change in the individual's circumstances.

When the Agency for Health Care Administration (AHCA) notifies the DOEA Comprehensive Assessment and Review for Long-Term Care Services (CARES) program of available enrollment capacity, the CARES program conducts a pre-release assessment of individuals based on the priority scoring process. If capacity is limited for individuals with identical priority scores, the individual with the oldest date of placement on the wait list will receive priority for pre-release assessment. Individuals who meet all eligibility criteria may enroll in LTCMC.

An individual may be terminated from the LTCMC wait list for conditions set forth in the bill. Once terminated, an individual is required to initiate a new request for placement on the wait list, and any previous priority considerations are disregarded.

The bill identifies certain populations that are provided priority enrollment for home and community based services through LTCMC, and which do not have to complete the screening or wait-list process as long as all other program eligibility requirements are met. These populations consist of:

- Individuals who are 18, 19, and 20 years of age who have chronic, debilitating diseases or conditions of one or more physiological or organ systems which generally make the individual dependent upon 24-hour-per-day medical, nursing, or health supervision or intervention;
- Nursing facility residents requesting to transition into the community who have resided in a Florida-licensed skilled nursing facility for at least 60 consecutive days; and
- Individuals referred to the Department of Children and Families (DCF) Adult Protective Services program as high risk and placed in an assisted living facility temporarily funded by the DCF.

The bill authorizes the DOEA and the AHCA to adopt rules to implement the bill.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 39-0; House 117-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/CS/HB 1411 — Termination of Pregnancies

by Health and Human Services Committee; Health Care Appropriations Subcommittee; and Rep. Burton and others (CS/SB 1722 by Fiscal Policy Committee and Senator Stargel)

The bill amends various statutes relating to the termination of pregnancies:

- Defines the terms “gestation,” “first trimester,” “second trimester,” and “third trimester”;
- Prohibits the sale and donation of fetal remains from an abortion and increases penalties for the improper disposal of fetal remains from a second degree misdemeanor to a first degree misdemeanor;
- Restricts state agencies, local governmental entities, and Medicaid managed care plans from contracting with, or expending funds for the benefit of, an organization that owns, operates, or is affiliated with one or more clinics that perform abortions, with some exceptions;
- Requires the Agency for Health Care Administration (AHCA) to collect certain data from medical facilities in which abortions are performed and to submit data to the federal Centers for Disease Control and Prevention (CDC);
- Requires the AHCA to:
 - Perform annual licensure inspections of abortion clinics;
 - Inspect at least 50 percent of abortion clinic records during a license inspection; and
 - Promptly investigate all credible allegations of unlicensed abortions being performed;
- Requires, in clinics that perform first trimester or second trimester abortions, that either:
 - The clinic have a written patient transfer agreement with a hospital within reasonable proximity which includes the transfer of the patient’s medical records held by both the clinic and the treating physician; or
 - All physicians who perform abortions in the clinic have admitting privileges at a hospital within reasonable proximity of the clinic;
- Requires the AHCA to submit an annual report to the Legislature beginning February 1, 2017, that summaries regulatory actions taken by the AHCA pursuant to its authority under ch. 390, F.S., in the prior year;
- Requires, effective January 1, 2017, abortion referral and counseling agencies to register with the AHCA and pay a registration fee, with some exceptions; and
- Prohibits a person from advertising or offering to purchase, sell, donate, or transfer, or purchasing, selling, donating, or transferring fetal remains obtained from an abortion.

If approved by the Governor, these provisions take effect July 1, 2016, except where otherwise provided.

Vote: Senate 25-15; House 76-40

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/CS/SB 1604 — Drugs, Devices, and Cosmetics

by Appropriations Committee; Health Policy Committee; and Senator Grimsley

The bill updates the Florida Drug and Cosmetic Act (Act) to bring it into conformity with the federal Food, Drug and Cosmetic Act (federal act). Recent amendments to the federal act preempted Florida's regulatory structure. The bill replaces provisions relating to pedigree papers with federal requirements for a transaction history, transaction information, or transaction statement for the manufacture and distribution of prescription drugs. Certain activities are exempted from the definition of wholesale distribution in order to conform regulatory oversight in Florida to the federal regulatory scheme.

The bill provides for administrative efficiencies and cost savings by:

- Eliminating the distinction between primary and secondary wholesalers and the supplemental information required of a secondary wholesaler for initial and renewal permitting for in-state and out-of-state prescription drug wholesale distributors;
- Allowing certain key personnel to submit an affidavit that information submitted on a previous personal statement remains unchanged;
- Modifying the requirement for a surety bond;
- Authorizing the Department of Business and Professional Regulation (DBPR) to contract with a vendor or enter into interagency agreements for electronic fingerprinting;
- Authorizing a pending application to expire;
- Authorizing certain permits to be issued for up to four-year periods; and
- Exempting licensed hospices from the requirement to obtain a medical oxygen retail establishment permit in order to provide medical oxygen to its patients based upon a prescription or order from an authorized practitioner.

The bill establishes a nonresident prescription drug repackager permit, along with the requirement to obtain such a permit if a repackager located outside the state distributes its repackaged prescription drugs into the state. This repackager is also required to comply with provisions applicable to prescription drug manufacturers. The DBPR must establish a virtual prescription drug manufacturer permit and a virtual out-of-state prescription drug manufacturer permit for manufacturers that do not physically manufacture and possess their prescription drugs.

The bill creates the "Victoria Siegel Controlled Substance Safety Education and Awareness Act." This act requires the Department of Health to develop and disseminate a pamphlet of educational information relating to controlled substances, encourage health care providers to disseminate and display information about controlled substance safety, encourage consumers to discuss the risks of controlled substance use with their health care providers, and create a systematic approach to increasing public awareness regarding controlled substance safety.

The bill also authorizes an academic medical research institution to conduct research on cannabidiol and Low-THC cannabis.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 39-0; House 117-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

SB 7020 — OGSR/Florida Health Choices Program/Florida Health Choices, Inc.

by Health Policy Committee

The bill reenacts existing public records exemptions for:

- Personal, identifying information of an enrollee or participant who has applied for or participates in the Florida Health Choices Program;
- Client and customer lists of a buyer's representative held by the Florida Health Choices Corporation; and
- Proprietary confidential business information of a vendor held by the corporation.

The information under the exemption is both confidential and exempt from s. 119.071(1), F.S., and Art. 1, s. 24(a), State Constitution.

The bill also continues the retroactive application of the exemption to protect information that was held by the corporation prior to initial enactment of the exemption.

If approved by the Governor, these provisions take effect October 1, 2016.

Vote: Senate 36-0; House 112-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/SB 7024 — OGSR/Information Held by the Florida Center for Brain Tumor Research

by Governmental Oversight and Accountability Committee and Health Policy Committee

The bill (Chapter 2016-48, L.O.F.) eliminates the scheduled repeal of the current public records exemption for personal identifying information held by the Florida Center for Brain Tumor Research. The following information continues to be confidential and exempt from public disclosure:

- Personal identifying information of donors to the central repository for brain tumor biopsies;
- Personal identifying information of registrants on the brain tumor registry; or
- Any information that is received by the Center from an individual from another state or nation, or from the Federal Government, if that information is confidential or exempt pursuant to the laws of the state or nation from which the information is transmitted.

These provisions were approved by the Governor and take effect on July 1, 2016.

Vote: Senate 36-0; House 114-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/CS/HB 7087 — Health Care

by Health and Human Services Committee; Health Care Appropriations Subcommittee; Select Committee on Affordable Healthcare Access; and Rep. Sprowls and others (CS/CS/SB 1686 by Appropriations Committee; Health Policy Committee; and Senators Bean and Joyner)

The bill authorizes the Agency for Health Care Administration (AHCA), the Department of Health (DOH) and the Office of Insurance Regulation (OIR) to survey health care facilities, health care practitioners, insurers, and health maintenance organizations, regarding the use of telehealth. The AHCA must submit a report of the survey and research findings to the presiding officers and the Governor by December 31, 2016. The three entities (AHCA, DOH, and OIR) may assess fines for non-compliance with the survey request.

The bill also creates a 15-member Telehealth Advisory Council. The council will be chaired by the Secretary of the AHCA or his or designee. The other members of the task force include the State Surgeon General; health care practitioners; representatives of long-term care services; a hospital representative; telehealth services providers, sellers, and health insurers; and a representative of health care facilities. The council is tasked with reviewing the survey and research findings and making recommendations to increase the use and accessibility of telehealth in this state in a report due to the presiding officers and the Governor by October 31, 2017. The council members will serve without compensation or per diem reimbursement and may meet by teleconference.

The bill modifies the definition of a “discount medical plan” under s. 636.202, F.S., to clarify that medical services provided through a telecommunications medium that does not offer a discount to the plan member is not insurance.

The bill also reinstates and re-enacts s. 409.975(6), F.S., relating to managed care plan accountability and current law relating to provider payments of managed medical assistance program participants.

The section of law creating the council sunsets June 30, 2018.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 39-0; House 118-0